

|  |
|--|
| USDC SDNY<br>DOCUMENT<br>ELECTRONICALLY FILED<br>DOC #: _____<br>DATE FILED: 8/28/2024 |
|--|

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|   |   |                     |
|---|---|---------------------|
| -----   | X |                     |
|   | : |                     |
| DAVID SPINDEL,                                  | : |                     |
|   | : |                     |
| Plaintiff,                                      | : | 1:23-cv-9961-GHW-JW |
|   | : |                     |
| -v-   | : | <u>ORDER</u>        |
|   | : |                     |
| KROLL, LLC; and KEVIN NOWASKEY,                 | : |                     |
|   | : |                     |
| Defendants.                                     | : |                     |
|   | : |                     |
| -----   | X |                     |
| GREGORY H. WOODS, United States District Judge: |   |                     |

On August 15, 2024, Judge Willis issued a Report and Recommendation (the “R&R”), recommending that Defendants’ motions to dismiss be granted in part and denied in part. Dkt. No. 41; *see also* Dkt. Nos. 26, 28 (motions). On August 28, 2024, Plaintiff filed an objection to the R&R. Dkt. No. 45. Earlier the same day, counsel for defendant Kevin Nowaskey filed a suggestion of death stating that Mr. Nowaskey has passed away. Dkt. No. 44.

Federal Rule of Civil Procedure 25(a) governs the substitution of a party in the event of a death. Rule 25(a)(1) provides:

*Substitution if the Claim Is Not Extinguished.* If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1). Thus, any party may file a motion for substitution pursuant to Rule 25(a)(1) no later than November 26, 2024.


Given the suggestion of death and the possibility that a party may wish to file a motion for substitution, this matter is stayed until the earlier of November 26, 2024 or the date on which a motion for substitution is filed. Defendants are not obligated to file oppositions to Plaintiff’s August 28, 2024 objections at this time. In light of the stay, the Court is open to entertaining a

request from Plaintiff to file renewed objections to the R&R, to allow Plaintiff an opportunity to provide the Court with more fulsome arguments supporting his objections to the R&R. Any such request may be submitted following the resolution of any motion for substitution or, if none, the expiration of the stay.

The Clerk of Court is directed to (1) terminate the motions pending at Dkt. Nos. 26 and 28 and (2) note the stay of this action on the docket.

SO ORDERED.

Dated: August 28, 2024  
New York, New York

  
\_\_\_\_\_  
GREGORY H. WOODS  
United States District Judge